



U.S. DEPARTMENT of STATE

India

Country Reports on Human Rights Practices - [2003](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 25, 2004

India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) leads a multi party coalition, heads the Government. President A.P.J. Abdul Kalam, who was elected in 2002 by an electoral college consisting of Members of Parliament and members of state assemblies, is Head of State and also has special emergency powers. State Assembly elections held in December in Mizoram, Delhi, Rajasthan, Madhya Pradesh, and Chhattisgarh were considered to be generally free and fair; however, there were reports of some violence. The judiciary is independent; however, the judiciary was underfunded, overburdened, and NGOs alleged that corruption influenced court decisions.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support through the use of paramilitary forces throughout the country. The Union Ministry for Home Affairs controls most of the paramilitary forces, the internal intelligence bureaus, and the nationwide police service; it provides training for senior police officers of the state-organized police forces. The armed forces are under civilian control. Members of the security forces committed numerous serious human rights abuses; however, some officers from the security forces were held accountable for their actions during the year.

The country was in transition from a government-controlled to a largely market-oriented economy. The private sector was predominant in agriculture, most non-financial services, consumer goods manufacturing, and some heavy industrial sectors. Economic liberalization and structural reforms begun in 1991 continued, although momentum slowed. The country's economic problems were compounded by a population growth rate of 1.7 percent annually and a population of more than 1.2 billion. Income distribution remained very unequal, with the top 20 percent of the population receiving 46.1 percent of national income and the bottom 20 percent receiving 8.1 percent. According to a government survey, 16.6 percent of the urban population and 18.6 percent of the rural population lived below the poverty level.

The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Significant human rights abuses included: Extrajudicial killings, including faked encounter killings, custodial deaths throughout the country, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; widespread exploitation of indentured, bonded, and child labor; and trafficking in women and children.

These abuses were generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems were most visible in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics, the refusal of security forces to obey court orders, and terrorist threats have disrupted the judicial system. In the Northeast, there was no clear decrease in the number of killings, despite negotiated ceasefires between the Government and some insurgent forces and between some tribal groups.

Terrorist attacks remained problems. The concerted campaign of execution-style killings of civilians by Kashmiri and foreign-based militant groups continued and included several killings of political leaders and party workers. Separatist guerrillas were responsible for numerous, serious abuses, including killing of armed forces personnel, police, government officials, and civilians; torture; rape; and other forms of brutality. Separatist guerrillas also were responsible for kidnapping and extortion in Jammu and Kashmir and the northeastern states. The Government accused the terrorist organizations Lashkar-e-Tayyiba (LeT) and Jaish-e-Muhammad (JeM) of responsibility for carrying out many of the attacks on civilians and military personnel. The Government has also expanded construction of a security barrier along the International Border and Line of Control (LoC), causing difficulties

for Kashmiris and Pakistanis. The Government claimed that the barrier was necessary to prevent terrorism, but the construction process also affected farming and other activities of nearby residents.

Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year's end.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Arbitrary and unlawful deprivations of life by government forces (including deaths in custody and faked "encounter" killings) continued to occur frequently in the State of Jammu and Kashmir and in several northeastern states, where separatist insurgencies continued. Security forces offered bounties for wanted militants. Extrajudicial killings of criminals and suspected criminals by police or prison officers also occurred in a number of states. Militant groups active in Jammu and Kashmir, several northeast states, and parts of Andhra Pradesh, killed members of rival factions, government security forces, government officials, and civilians.

There were significantly fewer attacks by militants in Jammu and Kashmir during the year; however, it continued at the level of the late 1990s, according to the Home Ministry (Kashmir has been at the center of a territorial dispute between India and Pakistan since the two nations gained their independence in 1947; both claim Kashmir.) In Jammu and Kashmir, according to the Home Ministry, security forces killed 1,526 militants during the year, compared with 1,747 militants killed during the same period in 2002. In addition, human rights groups alleged that during the year security forces killed a number of captured non-Kashmiri militants in Jammu and Kashmir. Kashmiri separatist groups claimed that in many instances "encounters" were faked and that security forces summarily executed suspected militants and civilians offering no resistance. Human rights activists alleged that the security forces were under instructions to kill foreign militants, rather than attempt to capture them alive, in the case of security encounters with non-Kashmiri terrorists who infiltrated into Jammu and Kashmir illegally.

According to press reports and anecdotal accounts, persons killed in disputed encounters typically were detained by security forces, and their bodies, often bearing multiple bullet wounds and marks of torture, were returned to relatives or otherwise were discovered shortly afterwards. For example, in May, Mohammed Ashraf Malik was taken into custody by the Rashtriya Rifles (RR) allegedly for assisting the guerrillas. Several days later, the RR unit advised Malik's family to collect his remains from the forest, claiming that he had stepped on a landmine. By year's end, an inquiry had been ordered in this case.

There reportedly was no action taken against members of the security forces responsible for the following killings in Jammu and Kashmir: The January 2002 "encounter" killing of Ali Muhammad Bhat, and the March 2002 alleged custody killing of Mubarak Shah in Dushar Gool.

The National Human Rights Commission (NHRC) asked the Uttar Pradesh government to pay \$10,000 (500,000 Rs) to the family of Dr. Sonali Bose, a graduate student shot by the police in July 2002 in an alleged case of mistaken identity.

The Jammu and Kashmir state government took numerous initiatives to hold violators of human rights accountable. In June, the Government announced that 118 of the security forces had been punished for having committed human rights violations, including 44 Border Security Force (BSF) members, 47 from the Central Reserve Police Force (CRPF), and 27 police officers. A Senior Superintendent of Police was suspended by the Jammu and Kashmir government for allegedly falsifying the DNA samples of five civilians killed in fake encounters in Chattisingpora, Anantnag District in March 2000; he was appealing his case at year's end. A ministerial subcommittee headed by the Deputy Chief Minister had recommended severe punishment for three police officers and two doctors for tampering with the evidence.

According to local press reports, the number of persons killed in encounter deaths varied widely throughout the country. In March, the Home Ministry reported that there were 116 complaints of alleged encounter deaths in 2000-2001, and 92 complaints of alleged encounter deaths from 2002 until year's end. In 2002, the NHRC called for all alleged encounter deaths to be investigated immediately and asked state governments to compensate the families of the victims. The NHRC's call in 2002 for all alleged encounter deaths to be investigated immediately was not heeded, and no such body was formed during the year. The NHRC issued instructions to all state governments to take appropriate preventive measures and recommended that compensation of \$22,000 (1,600,000 Rs) be paid to the families of persons killed in such cases from 1993 until year's end. In most cases reported during the year; however, \$7,350 (500,000 Rs) was the amount awarded.

In addition, the NHRC issued guidelines to state governments with the goal of helping to prevent encounter deaths. However, members of the security forces rarely were held accountable for these killings. The NHRC may ask for a report from a state government, but does not have the statutory power to investigate such allegations. Human rights activists maintained that the Government increasingly substituted financial compensation to victims' families

for punishment of those found guilty of illegal conduct. In some cases, victims or victims' families distrusted the military judicial system and petitioned to transfer a particular case from a military to a civil court. The authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC.

The security forces also killed many civilians during military counterinsurgency operations in Jammu and Kashmir. A December Amnesty International (AI) paper indicated that security forces had reportedly killed over 250 civilians during the year. According to the Home Ministry, security forces killed 28 civilians from April 1 until June 30, and the NHRC recommended payment of compensation in 11 of these cases.

The Armed Forces Special Powers Act and the Disturbed Areas Act remained in effect in several states in which active secessionist movements exist, namely, in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, which, according to human rights groups, allowed security forces to operate with virtual impunity in areas under the act. The Armed Forces Special Powers Act provides search and arrest powers without warrants (see Section 1.d.).

Accountability remained a serious problem in Jammu and Kashmir. Security forces committed thousands of serious human rights violations over the course of the 14-year conflict, including extrajudicial killings, disappearances, and torture (see Sections 1.b. and 1.c.). Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. Punishments ranged from reduction in rank to imprisonment for up to 10 years. In a December letter to Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed, AI wrote "the state government needs to be seen to make the security forces more accountable for their actions."

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see Section 3). According to the Jammu and Kashmir Director General of Police, shootings, explosions, and suicide attacks killed more than 2,714 persons during the year. More than 836 civilians, 384 security personnel, and 1,494 militants were killed in politically motivated violence during the year. Supporters of different political parties, and supporters of different factions within one party, frequently clashed with each other and with police during the election.

Country-wide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgencies (see Sections 1.b., 1.c., 1.d., and 1.g.). Human rights groups alleged that police often faked encounters to cover up the torture and subsequent killing of both militants and noncombatants.

The number of persons killed and injured in militant violence in the northeastern states was significant but was much lower than the numbers killed in similar violence in Jammu and Kashmir. The Home Ministry reported that during the first half of the year, more than 738 militant attacks occurred in the Northeastern states resulting in 503 casualties and 437 kidnappings, while 271 militants surrendered. Numerous incidents of encounters involving security forces and militant organizations such as the United Liberation Front of Assam (ULFA), the National Democratic Front of Bodoland (NDFB), and the United People's Democratic Solidarity (UPDS) continued.

The trial in the case of People's War Group (PWG) guerrillas charged with the 2001 killing of human rights activist Purushotham was ongoing at year's end. During the year, the trial in the case of persons charged with the 2001 killing of human rights activist Azam Ali was concluded, and the defendants were found not guilty.

As evidence that encounters often were faked by police, human rights groups cited the refusal of police officials to turn over the bodies of suspects killed. The bodies often were cremated before families could view them. In July, the NHRC reported that an encounter death occurred after the Andhra Pradesh police detained two suspected PWC members. No further action was taken by year's end.

During the year, in Andhra Pradesh, the Disturbed Areas Act was not in force. Human rights groups alleged that security forces were able to operate with virtual impunity under the act. They further alleged that Andhra Pradesh police officers trained and provided weapons to an armed vigilante group known as the "Green Tigers," whose mission was to combat the Naxalite group in the state. Little was known about the size, composition, or activities of this group.

Court action in cases of extrajudicial killings were widely criticized as slow and inconsistent. For example, there was no action taken, nor was any likely, for persons responsible for the 1996 killings of Jalil Andrabi and Parag Kumar Das.

Police frequently used excessive force indiscriminately against demonstrators, killing citizens (see Section 2.b.).

Although the Supreme Court in July 2002 ordered regular checks on police stations to ascertain the incidence of custodial violence against persons, the government and local authorities failed to comply in the overwhelming majority of police stations throughout the country; however, the checks were conducted in a very small number of police stations in Madhya Pradesh and West Bengal.

Deaths in custody were common both for suspected militants and other criminals. According to the NHRC, there were 1,305

reported deaths in custody nationwide during 2001, the latest year for which data were available. In December, the Jammu and Kashmir Chief Minister reported that there were 8 custodial deaths in Jammu and Kashmir during the year, compared to 11 in 2001. Many died from natural causes aggravated by poor prison conditions (see Section 1.c.).

There were reports of deaths in custody that resulted from alleged torture or other abuse. For example, in January, 28-year-old Ramesh died in police custody in Karnataka, allegedly after having been tortured. Human rights organizations questioned the legality and severity of the police actions. Two policemen were suspended but were not arrested or charged.

In June, the Jammu and Kashmir state government dismissed a deputy superintendent of police for his role in the 1999 custodial deaths of three persons.

The NHRC focused on torture and deaths in custody by directing district magistrates to report all deaths in police and judicial custody to the commission and stating that failure to do so would be interpreted as an attempted coverup. Magistrates appeared to be complying with this directive, although states varied in their adherence to NHRC directives on custodial deaths.

During the year, some state governments took some measures regarding custodial deaths. In May, the Jammu and Kashmir Human Rights Commission directed the central government to pay \$10,000 (500,000 Rs) to the parents of Hilal Ahmed Nasti who died in custody. Following NHRC guidelines, the Government announced plans to address deficiencies in the prison system and establish a committee to draft a model prisons manual. The committee circulated its draft to all state governments/union territories for their input, but has not given a timeline for final publication.

In Bihar, the NHRC recorded 144 custodial deaths in its 2001-2002 reporting period. According to the NHRC, the Bihar government had not adequately responded to NHRC directives and reports addressing police training and accountability. However, the Bihar Inspector General of Prisons reportedly stated that of the 144 cases, only 15 were "unnatural deaths." Human rights sources claimed that the number was higher. The NHRC Chairperson stated that Bihar had the second highest number of human rights violations in the country, but it had not yet formed a State Human Rights Commission.

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants were members of police auxiliary units consisting of former separatists who surrendered to government forces, but who retained their weapons and paramilitary organization. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort. Allegations of violations by the Special Operations Group (SOG), special anti-insurgency police units which in the past have operated outside the law, continued throughout the year. For example, on November 12, the SOG entered the home of Bashir Ahmad Sheikh, who was allegedly killed in an "encounter" in July, and beat his mother and sisters. In March, Jammu and Kashmir Chief Minister Mufti Mohammed Sayeed told the Legislative Assembly that the SOG was disbanded; however, at year's end, there has been no sign that disbandment of the SOG had taken place. SOG members who earlier acted independently had been subordinated to regular police units. Fifty-three members of the SOG had been charged with human rights violations and 25 were removed from duty but have not been arrested or charged with any crime. In December, there were reports of protests in several districts in Jammu and Kashmir after former SOG members were appointed to positions in the uniformed police. Countermilitants searched persons at roadblocks (see Section 2.d.) and guarded large areas of the Kashmir Valley. The Government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these groups. According to journalists in Srinagar, as many as 1,200 countermilitants continued to operate in Jammu and Kashmir, particularly in the countryside.

In the seven northeastern states, insurgency and ethnic violence was a problem. The main insurgent groups in the northeast included two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security forces in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups was secession. Their stated grievances against the Government ranged from charges of neglect and indifference to the widespread poverty of the region and to allegations of active discrimination against the tribal and nontribal people of the region by the central Government (see Section 5). During the year, talks continued between various insurgent groups and central and state government officials. In January, the Government and the National Socialist Council of Nagaland Isaac and Muivah (NSCN-IM) continued talks extending the unilateral August 2001 cease-fire. In February, the Assamese government, the Bodo Liberation Tigers (BLT) and the Government signed a tripartite agreement to create the Bodoland Territorial Council, an autonomous self-governing body. Further talks were held in December between NSCN-IM leaders and the Government to discuss integration of Northeastern states into "greater Nagaland."

Surrenders by militants in the northeast, often under government incentive programs, continued during the year. Surrendered militants usually were given a resettlement and retraining allowance and other assistance. According to human rights activists and journalists, a few surrendered militants were allowed to retain their weapons and were working for the police as anti-PWG officers, residing in police camps and barracks. Human rights groups alleged that police used former militants to kill Naxalites and human rights activists with close links to the PWG, although police attributed such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year. In February, the Home Ministry held several rounds of talks with the state government of Andhra Pradesh and a representative of the PWG Group. In June 2002, the group withdrew from those talks following a police encounter.

In Tripura, the systematic surrender of arms by a faction of NLFT insurgents and NLFT fringe groups continued, due to the increased security pressure and to infighting within NLFT insurgent ranks.

The killings of ULFA leaders' family members by unknown persons during the year renewed concerns about the situation in Assam. For example, in January 2002, unidentified assailants shot and killed three relatives of two ULFA militants, including two relatives of ULFA deputy commander in chief Raju Baruah. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of the ongoing violence (see Section 2.d.).

Militant groups continued to attack civilians. For example, in August unknown persons killed 52 persons by detonation of a car bomb in Bombay.

In Manipur 15 civilians, 34 militants and 15 security force personnel were killed in clashes with the militants during the year. In January, one child was killed and one person was injured when the border security forces allegedly fired into a home. In July, two security force members were killed and Chief Minister O. Ibibi Singh was shot allegedly by the People's Liberation Army in Manipur. Nobody was arrested in connection with this incident. In Manipur, 18 militant groups reportedly were active, including outlawed Meitei organizations.

In Tripura, the Chief Minister reported 1150 separatist-related deaths from 1999 until 2003. Of the 1150 killings, 193 took place during the year. For example, on May 7, 19 non-tribal villagers were killed by tribal militants in Tripura. NGOs speculated that the All India Tripura Tiger Force was responsible.

The South Asia Terrorism Portal reported that 17 persons were killed in clashes with militants in Nagaland during the year. Throughout the year, talks continued between various Naga separatists and central and state government officials, and human rights groups observed that violence had decreased; however, violent clashes between NSCN-IM and police officers continued. For example, in April security forces shot and killed one NSCN-IM member and arrested two others. On July 31, the Government extended for an additional year the ceasefire with militants; however, the Government's continued negotiations with Naga separatists over a cease-fire caused significant unrest in neighboring states.

In the north-central states of Bihar, Jharkhand, Orissa, and West Bengal, clashes between police officers and the PWG continued. The police sometimes responded with violence. For example, on September 8, 11 police personnel and a civilian were killed in a landmine explosion allegedly set by the PWG in Bihar. Twenty years of guerrilla-style conflict between state authorities and Naxalites led to serious human rights abuses committed by both sides.

Killings of security force members by militants in Jammu and Kashmir declined to 381 during the year, according to the Home Ministry.

During the year, militant groups in Jammu and Kashmir targeted civilians, members of the security forces, and politicians. According to the Home Ministry, militants had killed 808 civilians during the year, compared with 967 in 2002. For example, in April several soldiers were killed by militants in Srinagar when a bomb detonated at the entrance of the state-run television and radio station.

Authorities prosecuted militants engaged in violence. For instance, in January, one person was convicted for the December 2000 killing of a soldier and two civilians at Delhi's Red Fort. The trial of seven others continued at year's end. In October, the Delhi High Court acquitted two Kashmiri defendants, S.A.R. Geelani and Afsan Guru, of complicity in the December 2001 terrorist attack on the Indian Parliament. At the same time, the court upheld the death sentence for two additional defendants charged in connection with this attack.

Nearly 41 persons were killed in violence related to the February Nagaland elections (see Sections 1.g. and 4).

Religious and ethnically motivated violence caused numerous deaths, and there were reports that Government agents encouraged this behavior (see Sections 2.c. and 5).

Mob lynchings of tribal people occurred in many states (see Section 5).

b. Disappearance

There were no confirmed reports of politically motivated disappearances due to action by government forces; however, there were numerous disappearances during the year.

According to a December AI report, unexplained disappearances continued during the year. According to an AI report released in 2000, there have been between 700 and 800 unsolved disappearances in Kashmir since 1990. In June, the Jammu and Kashmir state government announced that 3,931 persons remained missing in the state since 1990. This figure contrasts with that given by the Association of Parents of Disappeared Persons, which puts the number at more than 8,000. In April, the Jammu and Kashmir judiciary established that 500 of these were disappearances in custody.

According to AI, in May, the NHRC asked the Chief Secretary of Jammu and Kashmir for specific information on the systems used by the state government to record and investigate allegations of enforced or involuntary disappearances. In addition, the Commission requested the number of such allegations recorded and the measures taken to prevent their occurrence. It recommended compensation relief for 719 persons who disappeared, and relief was paid for 61.

In the northeastern states, the Government was unable to provide complete statistics for the number of persons held under special security laws, but acknowledged that 43 persons were in detention under the National Security Act as of 1998. Although the Government allowed the Terrorist and Disruptive Practices (Prevention) Act (TADA) to lapse in 1995, one human rights organization credibly reported in 2002 that more than 1,000 persons remained in detention awaiting prosecution under the law, and cases opened under TADA continued through the judicial system. Several thousand others are held in short-term (1-day to 6 months' duration) confinement in transit and interrogation centers.

There were no developments in the June 2002 custodial disappearance of Manzoor Ahmad Dar.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long term unacknowledged detention in interrogation centers and transit camps that nominally were intended only for short term confinement. Human rights groups feared that many of these unacknowledged prisoners were subjected to torture and extrajudicial killing (see Sections 1.a. and 1.c.).

The Government maintained that screening committees administered by the state governments provided information about detainees to their families. However, other sources indicated that families were able to confirm the detention of their relatives only by bribing prison guards. In November 2002 the state government of Jammu and Kashmir responded to this problem by installing a screening system to review old detention cases and released numerous detainees (see Section 1.d.). For example, after the Joint Screening Committee in Jammu and Kashmir recommended the release of 24 persons, 17 persons were released. In June, 92 persons were released under the state's 1978 Public Safety Act.

In Punjab, the pattern of disappearances prevalent in the early 1990s has ended; however, hundreds of police and security officials were not held accountable for serious human rights abuses committed during the counterinsurgency of 1984-94. In June, the Committee for Coordination of Disappearances in Punjab (CCDP), a Punjab-based human rights organization, completed its 634-page report documenting 672 of the "disappearance" cases currently pending before the NHRC. The Central Bureau of Investigation (CBI) claimed to be pursuing actively charges against dozens of police officials implicated in the "mass cremations" in which police in Amritsar, Patti, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. The militants were believed to have been abducted, extrajudicially executed, and cremated without the knowledge or consent of their families. Although 6 years have passed since the Supreme Court ordered the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district, by year's end, no significant progress was made in identifying the cremated bodies or bringing to justice those responsible for the killings.

In July, a key witness in the trial of Punjab police officials who killed human rights monitor Jaswant Singh Khaira was arrested and charged with alleged rape.

No action has been taken against the approximately 100 police officials who were under investigation for abuses committed while suppressing the violent insurgency in Punjab.

There were credible reports that police throughout the country often did not file legally required arrest reports. As a result, there were hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, countering that there were no records of arrest.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. Sometimes kidnapped persons later were killed (see Sections 1.a. and 1.g.). In February, militants beheaded two civilians they had kidnapped. There were 211 reported kidnappings in the northeastern states during 2002. For example, on February 24, unknown assailants abducted and killed Kishore Reang, the elder brother of a candidate in Kanchanpur. In July, unknown assailants abducted Rafiqul Islam in Tahirpur. He was subsequently freed from a hotel in Dimapur in September after his father refused to pay a ransom.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture, and confessions extracted by force generally are inadmissible in court; however, authorities often used torture during interrogations. In other instances, authorities tortured detainees to extort money and sometimes as summary punishment.

The U.N. Special Rapporteur on Torture has reported that the security forces systematically tortured persons in Jammu and Kashmir to coerce confessions to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants.

In a 1996 report, the U.N. Special Rapporteur on Torture noted that methods of torture included beating, rape, crushing the leg muscles with a wooden roller, burning with heated objects, and electric shocks. Because many alleged torture victims died in custody, and others were afraid to speak out, there were few firsthand accounts, although marks of torture often were found on the bodies of deceased detainees. For example, in February, there were protests in the villages of Handwara and Tral, after a Rashtriya Rifles unit detained two villagers, allegedly tortured them for 2 days and then released them. There were no reports of action taken in any of these cases. Unlike in 2001, the Home Ministry again did not extend an invitation to the U.N. Special Rapporteurs on Torture and on Extrajudicial Killings.

The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody (see Section 1.a.). New Delhi's Tihar jail was notorious for the mistreatment of prisoners, with approximately 10 percent of custodial deaths nationwide occurring there. Police and jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses under the Penal Code, the Government often failed to hold them accountable. According to AI, torture usually takes place under two scenarios: In the course of regular criminal investigations, and following unlawful and arbitrary arrests. For example, during criminal investigations, police frequently resorted to torture to extract information from suspects while in custody.

There was no action taken, nor was any action likely to be taken, against the police officers responsible for the 2002 torture of a 37-year-old man from Chennai.

The family of the 14-year-old girl allegedly abducted, tortured, and raped for 6 days by Patiala police in Punjab in 2001 filed a report with the state authorities to press for prosecution of the responsible police officer. No action was taken by the state government at year's end.

There also were incidents in which police beat journalists (see Section 2.a.), demonstrators (see Section 2.b.), and Muslim students (see Section 2.c.). Police also committed abuses against tribal people (see Section 5).

The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police and the likelihood that many rapes were unreported due to a sense of shame and a fear of retribution among victims. However, legal limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. In January 2002, a tribal woman alleged that she was raped by the head constable in Vaniyambadi Police Station in Tamil Nadu after being arrested on theft charges. The case was pending in the Chennai High Court at year's end.

During the year, the state government arrested three BSF members and ordered an inquiry into the 2002 case of the 17-year-old girl allegedly raped by three BSF force personnel in Pahalgam. The three accused were arrested, and the BSF commenced a Staff Court of Inquiry. The inquiry continued at year's end.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see Section 1.g.). It was not included in NHRC statistics because it involved the military forces, over which the NHRC does not have direct investigative authority.

Human rights training for new recruits, middle ranks, and long-serving officers continued at the National Police Academy. The training has raised police awareness of human rights, and there was some decrease in police use of physical force. According to the NHRC, complaints of police harassment and abuse generally declined over a 3 year period. In April, the Home Ministry reported that from 2002 until April, there were 28,765 complaints lodged against police, compared with 29,964 in 2001-2002, and 32,123 in 2000-2001. Some militant groups in the northeast used rape as a tactic to terrorize the populace; however, no cases were known to be reported during the year.

According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Sections 5, 6.c., and 6.f.).

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty in filing complaints because local police were issued instructions not to open a case without permission from higher authorities. In addition, the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990 provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted...against any person in respect of anything done or purported to be done in exercise of the powers of the act." This provision allowed the security forces to act with virtual impunity.

In Punjab, cases of torture were inadequately prosecuted, and victims frequently refused to accept compensation out of fear of retribution. Allegations by human rights activists that victims were hounded and harassed by government agents were common.

The Government occasionally used excessive force in putting down demonstrations (see Section 2.b.). There was no known action during the year, nor was any action likely to be taken, against the police officers responsible for the July 2002 beating of villagers who were forcibly evicted from their homes in Madhya Pradesh.

The Government also occasionally used excessive force against tribal people. There reportedly were no developments in the investigation of the October 2002 shooting of three tribal persons in Orissa.

Police corruption undermined efforts to combat trafficking in women and children (see Section 6.f.).

Religiously motivated violence led to a number of deaths and injuries as well as damage to property (see Section 2.c.).

Prison conditions were harsh and life threatening. Prisons were severely overcrowded, and the provision of food and medical care frequently was inadequate. In July, hundreds of prisoners at the Gopalgary District Jail in Bihar went on hunger strike to protest the poor sanitation, meager food supply, and severe overcrowding.

Severe overcrowding in prisons was common. For example, the Divisional Jail in Bihar had a planned capacity of 55 prisoners but held 753 inmates. Prisons operated above capacity because more than 60 percent of the prison population were persons awaiting hearings (see Section 1.d.). For example, the Government reported that New Delhi's Tihar jail held four times as many prisoners as its capacity at year's end. The Government announced plans to address the overcrowding in prisons by building four additional prisons; however, no further action had been taken by year's end.

The 1,157 deaths in judicial custody reported to the NHRC in March included a large proportion of deaths from natural causes that in some cases were aggravated by poor prison conditions (see Section 1.a.). A study in 2002 conducted by the NHRC found that tuberculosis was the cause of death in most deaths in judicial custody. With the country's high incident of HIV/AIDS and tuberculosis, prison overcrowding was a serious health threat. There were reports that some prisoners died in custody from HIV/AIDS related illnesses.

Deaths in police custody, which typically occurred within hours or days of initial detention, more clearly implied violent abuse and torture. However, in January 2001, the NHRC requested that the Commission be informed of any custodial death within 2 months and that a post-mortem report, magisterial inquest, and a video of the post-mortem be provided to the NHRC.

NGOs were allowed to work in prisons, within specific governmental guidelines. In Kerala and Karnataka, the state governments selectively cleared NGOs to visit prisons. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns. In February, the Government disclosed plans to supplement state funds to effect prison reforms. Noting that Orissa demonstrated a particular need for assistance, the Home Ministry reported that it had provided \$5,000 (233,078 Rs) for the modernization of the prison administration between 1993 and 2002.

Women were housed separately from men. By law, juveniles must be detained in rehabilitative facilities; however, at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

Human rights NGOs, family members, and lawyers were allowed access to some detention facilities; however, International Committee of the Red Cross (ICRC) visited detention facilities in Jammu and Kashmir (see Section 4). Fifteen states and union territories have authorized the NHRC to conduct surprise check-ups on jails. The NHRC's "Special Rapporteur and Chief Coordinator of Custodial Justice" helped implement its directive to state prison authorities to perform medical check-ups on all inmates.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, in areas where there are separatist insurgencies, the Government did not observe these prohibitions.

NGOs and human rights activists alleged that the police often committed human rights violations with impunity and that corruption was pervasive. The NHRC reported that the majority of complaints received were against the police. The Malimuth Committee on Judicial Reform issued a report during the year that proposed some police reform, which has yet to be implemented.

The Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by legal counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge. Detention conditions remained poor.

The Constitution provides that arrested persons have the right to be released on bail. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory. In most cases, bail was set between \$11.00 (\$500 Rs) and \$4,000 (\$200,000 Rs).

Authorities in Jammu and Kashmir continued to keep in detention persons who had been arrested under TADA in the past, despite the fact that the Act lapsed in 1995. In February, the Jammu and Kashmir state Supreme Court overturned the controversial ruling of a TADA court that had acquitted three militants in the murder of Kashmiri Pandit human rights activist H.N. Wanchoo in 1992. Human rights activists estimated that 351 persons remained in custody under the TADA at year's end. In 2002, the Jammu and Kashmir governments established a committee to review detainees' cases and by year's end, the committee released approximately 17 persons. TADA courts used abridged procedures. For example, defense counsel was not permitted to see witnesses for the prosecution, who were kept behind screens while testifying in court. Also, confessions extracted under duress were admissible as evidence.

However, authorities continue certain cases of persons arrested under TADA before the law lapsed in 1995. For example, in February, government agents detained Simranjit Singh Mann under TADA in New Delhi on making "an inflammatory speech in April 1991 appealing for a separate state of Khalistan." No further information was available. In September, a special court in New Delhi acquitted Kashmiri separatist Yasim Malik of charges filed in 1992 under the TADA for allegedly "aiding and abetting terrorist activities in the [Kashmir] Valley."

The Prevention of Terrorism Act (POTA), enacted in March 2002, replaced the Prevention of Terrorism Ordinance (POTO) in 2001. POTA allows for the detention without charge for 3 months, and 3 more months if allowed by a special judge, deems not disclosing information to the authorities about terrorist activities an offense, and provides extensive new powers to ban organizations and seize their assets. The act is similar to TADA in its provisions for detentions, summary trials, and the use of testimony obtained under duress. In addition, POTA provides for special courts to try offenses, places the burden of proof at the bail stage on the accused, allows confessions made to a police officer admissible as evidence, extends the period of remand from 15 to 60 days, and sets mandatory sentences for terrorism-related offenses. Human Rights Front, a local Jammu and Kashmir NGO, reported that over 106 cases were registered under POTA by the end of March, 3 of whom were women and an undisclosed number of children. In July, the Government disclosed that 702 persons had been arrested under POTA since its enactment. Human rights groups alleged that the governments have invoked POTA selectively and on dubious grounds against the political opponents of the ruling parties and persons belonging to the minority communities. For example, in January, police arrested Imran Rehman Khan under POTA for a bus attack in December 2002. Authorities claimed that he was linked to LeT terrorist group. In March and June 2002, Yasin Malik was arrested under POTA and the Jammu and Kashmir Public Safety Act (PSA). He was released in November 2002; however, he still faced charges under POTA at year's end.

In December, the Supreme Court upheld the constitutional validity of the POTA and held that journalists and lawyers have no right to withhold information regarding a crime under the pretext of professional ethics. The court also ruled that under POTA mere "moral support" for a terrorist organization did not constitute an offence under the Act. Despite this ruling, POTA was used to arrest members of various organizations and opposition political parties on charges of publicly expressing support for the banned LTTE terrorist group. For example, in March the Tamil Nadu government reported that 42 persons were detained under the POTA, four of whom were arrested for expressing support for the LTTE.

In October, the Delhi High Court upheld the death sentence for two of the militants who attacked the Indian Parliament in December 2001. The court also acquitted two of the defendants for their role in the attack (see Section 1.d.).

In March, the Government issued a directive to form a POTA review committee to examine the use of the law in various states and prepare a report of findings and recommendations. In October, the government gave statutory powers to the POTA Review Committee for redress of complaints by individuals. The POTA Review Committee reviewed cases, and its findings were binding on the government and interrogating police officers. The Committee had not issued a final report by year's end.

The National Security Act (NSA) permits police to detain persons considered to be security risks anywhere in the country (except for Jammu and Kashmir). The authorities may detain a suspect without charge or trial for as long as 1 year on loosely defined security reasons. NSA does not define "security risk." The state government must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances).

The Government was not able to provide figures on how many persons were detained nationwide under the NSA, but in 1997 there were 1,163 such persons. According to press accounts during the year, there were no persons detained under NSA in the northeast, but in New Delhi an alleged narcotics trafficker was arrested under the NSA. The man allegedly lured young children into the narcotics business and then used them as couriers. Human rights groups alleged that preventive detention may be ordered and extended under the act purely on the suggestion of the detaining authority and after an advisory board review. No court may overturn such a decision.

The PSA, a law that applies only in Jammu and Kashmir, permits the detention of persons without charge and without judicial review for up to 2 years. In addition, detainees do not have access to family members or legal counsel. The Government estimated that approximately 514 persons remained in custody under PSA or related charges at year's end, and 412 were in police custody under other charges. In June, 92 prisoners detained under the PSA were released. In February, the Government released Syed Ali Shah Geelani, who had been detained under the PSA and the Officials Secrets Act (see Section 2.a.) since June 2002. Geelani's two sons-in-law, also arrested in June 2002, were released during the year.

The Armed Forces Special Powers Act (AFSPA) of 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura,

and a version of this law was in effect in Jammu and Kashmir. Under this Act, the Government has the power to declare any State or Union Territory a "disturbed area;" allows security forces to fire on any person if it is considered "necessary for maintenance of law and order;" the authorities can arrest any person "against whom reasonable suspicion exists" with no obligation to inform the detainee of the grounds for arrest; and the authorities are given immunity from prosecution for any acts committed by them in relation to the Act.

Unlike previous years, there were no reports that police detained members of teacher's unions and other activists groups on suspicion of illicit membership.

A program of prison visits by the ICRC was designed in part to help assure communications between detainees and their families. According to the Home Ministry's annual report, the ICRC visited 53 detention centers and over 7 thousand detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and Kashmiris held elsewhere in the country. However, the ICRC was not authorized to visit interrogation centers or transit centers, nor did it have access to regular detention centers in the northeastern states (see Sections 1.c. and 4). During the year, the ICRC stated that it continued to encounter difficulties in maintaining systematic access to people detained in Jammu and Kashmir.

The court system was extremely overloaded, resulting in the detention of thousands of persons awaiting trial for periods longer than they would receive if convicted. Prisoners were held for months or even years before obtaining a trial date. As of July 2002, there reportedly was a backlog of over 13 million cases in the lower courts, while high courts had a backlog of 3.5 million cases. The Supreme Court had 23,000 pending cases. The NHRC reported that 75 percent of the country's total inmates were unconvicted prisoners awaiting completion of trial.

Several detainees complained to government officials that they were detained without charge, some for many months, while police investigated their connection with Naxalites. In August, the NHRC reported that it had issued notice to the Orissa and Andhra Pradesh Government to order an investigation into the large numbers of innocent people arrested by local police on suspicion of being Naxalites.

In 2000, the Government announced that it would fund the creation of 1,734 additional courts during 2000-2005. At year's end, 1,205 of these courts had been set up.

There were no political detainees reported during the year.

Exile was prohibited and there were no reports of forced exile during the year.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, serious problems remained. The judiciary was backlogged and understaffed in most parts of the country, and in Jammu and Kashmir, the judiciary has long been subject to threats and intimidation by guerillas and by security forces to obey court orders. The judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts. The highest court is the Supreme Court, which has jurisdiction over constitutional issues. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, and they may serve until the age of 62 on state high courts and until the age of 65 on the Supreme Court.

The judicial system was extremely overburdened. In general, the judiciary enforced the right to a fair trial; however, there was a large backlog of cases, and as a result, some courts barely functioned. The Criminal Procedure Code provides that trials be conducted publicly in most cases, but it allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly. Defendants have the right to choose counsel independent of the Government. There were effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to indigent defendants.

Muslim personal status law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The Government does not interfere in the personal status laws of the minority communities, including those that discriminate against women.

In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed antimilitant actions; and because of the frequent refusal by security forces to obey court orders. Jammu and Kashmir were reluctant to hear cases involving terrorist crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged terrorists in the Jammu High Court during the year; many more accused militants had been in pretrial detention for years. The number of militants in pretrial detention is in the hundreds; however, the exact number is unknown. During the year, the Government announced plans to release 274 such detainees, as a result of court orders. By year's end, only 24 militants had been released under instructions of the government-appointed Review Committee.

Criminal gangs in all four southern states were known to attack rivals and deny free access to justice. In some cases, accused persons were attacked while being escorted by police to the courts.

To remedy the severe overcrowding in the judicial system, the Government asked the government-appointed Malimath Committee to identify possible improvement. In April, AI reported that the recommendations of the Malimath Committee "represent an extremely narrow interpretation of the problems which ail the system and a set of solutions which ignore fundamental human rights safeguards." Further, AI believes "the reports recommendations will increase the risk of torture for those in police detention, severely weakening safeguards for fair trial and reduce legal protections for women."

The U.N. Special Rapporteur on the Independence of the Judiciary was not invited to visit the country during the year.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. The police must obtain warrants for searches and seizures. In a criminal investigation, the police may conduct searches without warrants to avoid undue delay, but they must justify the searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The Government Enforcement Directorate (ED), which was mandated to investigate foreign exchange and currency violations, searched, interrogated, and arrested thousands of business and management professionals annually, often without search warrants. However, the ED's efforts ultimately resulted in very few convictions.

The Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in case of public emergency or "in the interest of the public safety or tranquility." Every state government has used these powers, as has the central Government.

The Information Technology Act grants the police powers to search premises and arrest individuals without a warrant. Under the Act, the maximum sentences for failing to provide information to the Government on request and transmitting "lascivious" material were 1 year and 5 years respectively. The Act also requires Internet cafes to monitor Internet use and inform the authorities (see Section 2.a.). At year's end, the government had not circulated rules for implementation of this law.

The Government did not restrict citizens' personal appearance; however, in Jammu and Kashmir and Manipur, militants attempted to enforce female dress codes. The Kanglei Yawon Kanna Lup, a militant group in Manipur, announced a dress code for the state's women that bans the wearing of saris, salwar kameez, and trousers. The group threatened to punish with death women who violated the code, and it urged women to wear the traditional Phanek and Chador on all occasions but allowed girls to wear salwars as school uniforms. In the Rajouri region of Kashmir, the militant groups Jamiat-ul-Mujahideen and Shariati Nefazi Islami ordered Muslim women to wear burqas, and three women were killed for not obeying these orders (see Sections 2.c. and 5).

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts

Government forces committed numerous serious violations of humanitarian law in the State of Jammu and Kashmir. Between 400,000 and 700,000 army and paramilitary forces were deployed in Jammu and Kashmir, although the Government did not release official figures. The population in the Kashmir Valley suffered disproportionately from the anti-insurgency campaign of the security forces. Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel enjoyed extraordinary powers, including authority to shoot on sight suspected lawbreakers, and to destroy structures suspected of harboring militants or arms.

The Home Ministry was unable to estimate how many civilians were killed in crossfire by security forces in Jammu and Kashmir during the year. In June, an Imam and his 13-year-old son were shot and killed in Baramulla by security forces in a case of mistaken identity. A magisterial inquiry was not completed by year's end. The security forces continued to abduct and kill suspected terrorists, but were not adequately held accountable for their actions. Many army officers' inclination not to participate in such practices led to a reduced number of cases, and, as a result, government-supported countermilitants often committed these abuses.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.), security forces abducted and sometimes used civilians as human shields in night patrolling and while searching for landmines; such abuses occurred mostly in the Kupwara and Doda districts.

Tension along the Line of Control between Pakistan and Indian-held Kashmir was high during the year, and there was shelling in several sectors; however, in November, the country and Pakistan announced a ceasefire. By all accounts, the ceasefire continued at year's end. The next round of talks between the Government and Pakistan was scheduled for January 2004.

The Home Ministry reported 2,841 cases of artillery shelling and mortar and small arms fire across the LOC killed an unknown number of civilians during the year. According to the Home Ministry, security forces killed 1,526 militants during the year. There were reports that government forces displaced civilians and destroyed homes during offensive operations.

Anti-government Kashmiri militant groups also committed serious abuses, including numerous execution-style mass killings of Hindu (Pandit), Sikh, and Buddhist villagers in Jammu and Kashmir (see Sections 1.a. and 5). The worst case occurred in March, when militants dressed in military fatigues killed 24 Pandits in Nadimarg. Militant groups also killed police officers and members of the security forces. For example, in July, militants killed seven pilgrims near Katra.

In addition to political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), insurgents engaged in extortion and carried out acts of random terror that killed hundreds of Kashmiris. Many of the militants were Afghani, Pakistani, and other nationals. The militants used time-delayed explosives, landmines, hand grenades, and snipers. There was a tendency to use heavy weapons such as hand grenades and rockets. Militants killed and injured numerous security personnel and destroyed a great deal of security force property; many civilians also were killed. For example, in March, militants killed three women and mutilated six other persons in the State of Jammu and Kashmir. During the year, militants killed persons who allegedly were informants for the Government.

Extremist and terrorist activities in the northeast also claimed many lives. In addition to ambushes, terrorists increasingly resorted to destroying bridges and laying time bombs on roads, on railway tracks, and in trains. In March, two persons were killed and six injured when the ULFA attacked four locations in Assam.

During the year, police arrested numerous persons suspected of involvement in previous terrorist attacks and charged some persons with planning human suicide bomb attacks to advance Sikh separatism. Police also captured dozens of separatist insurgents in Jammu and Kashmir for bombings, killings, and acts of sabotage.

Improvised explosive devices (IEDs) and landmines were a problem in Jammu and Kashmir. Reportedly, militants continued to use IED and landmines for offensive and defensive purposes. Militants previously restricted landmine use to army convoys traveling outside of major cities, but during the year they used command-detonated devices in and around Srinagar. In August, the Home Ministry reported to Parliament that since December 2001, 124 persons have been killed by landmines in the Sriganganagar district.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. A vigorous and growing press reflected a wide variety of political, social, and economic beliefs. Newspapers and magazines regularly published, and television channels broadcast, investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses.

Under the Official Secrets Act, the Government may restrict publication of sensitive stories or suppress criticism of its policies. On January 10, the Government found that the 2002 detention under the Act of Syed Iftikhar Gilani was unjustified and released him.

In January, the Government passed a Freedom of Information law. This law allows citizens to request and receive documents from the Government that are considered to be in the public domain.

Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned, and 20 percent were operated by Doordarshan, a semi-autonomous body controlled by the Government. Government-controlled radio was the main source of news for much of the population.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the press from publishing material likely to incite murder or any act of violence, and authorizes the authorities to seize newspaper premises and printing presses. Despite these restrictions, newspapers in Srinagar, the capital of Jammu and Kashmir, reported in detail on alleged human rights abuses by the Government and regularly published press releases of Islamic separatist Kashmiri groups. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on government abuses.

In Assam, the state government reportedly attempted to impede criticism by filing a number of criminal defamation charges against journalists.

In July, the Tamil Nadu government brought a defamation suit against the English daily The Hindu for printing a series of articles about the mishandling by police of a kidnapping. The case was not heard during the year.

In November, the Tamil Nadu Assembly speaker ordered the arrest of several officers and journalists at The Hindu. In response, the newspaper obtained an injunction from the Supreme Court against the Speaker's arrest directive.

In December, Randeep Sudan, a senior official in the office of the Chief Minister of Andhra Pradesh, filed defamation charges in his personal capacity against the daily newspaper Andhra Jyody. The newspaper had reported that Sudan was corrupt but also published his response to the allegations.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, with a chairman appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings, while noted by the press community, carried no legal weight.

At the national and state levels, governments and political parties often seek to influence regional media. The Hindu was unable to get advertising from the state government of Tamil Nadu after its negative reporting of the actions taken by the state. In addition, in Gujarat, a number of journalists at English language newspapers and electronic media, who had criticized Chief Minister Narendra Modi's government and its political supporters following the 2002 riots, continued to be subjected to "strong-arm" tactics. The threat of losing state government revenue contributed to self-censorship by smaller media outlets, which heavily relied on government advertising.

Authorities occasionally beat, detained, and harassed journalists, which resulted in some self-censorship. For example, on August 2, Bapi Roy, a photojournalist for the Agartala daily were beaten by members of the police. At year's end, the police had investigated the incident but no charges had been filed. In September, government employees beat several journalists in Assam, three of whom required hospitalization. At year's end, a departmental inquiry was conducted, and the Government suspended several state employees.

In some instances, allegations of violence against journalists were made against state governments. On May 17, the offices of two Bengali daily newspapers, Dainik Vivek and Dainik Janapad, were attacked by armed men believed to owe allegiance to the state's Information Minister. At year's end, two persons were arrested for the incidents.

In August, two journalists were assaulted by the Students Federation of India, which was affiliated with CPI(M) in West Bengal. Press reports suggested the journalists were assaulted to deter them from reporting inappropriate actions by members of the SFI.

During the year, the 2001 case of police assaulting 12 members of the press during a DMK rally was decided. The Chennai High Court directed the Tamil Nadu government to pay compensation to the 12 journalists; however, pending a determination of damages, at year's end no compensation had been paid.

The Government maintains a list of banned books that may not be imported or sold in the country; some--such as Salman Rushdie's "Satanic Verses"--because they contain material government censors have deemed inflammatory and the government claimed the banned books caused communal tensions. In December, West Bengal banned Taslima Nasreem's "Split in Two" because the book allegedly slandered Islam and the Prophet Mohammed.

Intimidation by militant groups caused significant self-censorship by journalists. The local press continued to face pressure from militant groups attempting to influence coverage. For example, on January 31, unknown assailants killed Parvaz Mohammed Sultan, editor of an independent wire service in Srinagar. The motive for his killing remained unknown. On April 28, unknown assailants killed 5 persons after detonating a car bomb and throwing grenades into the offices of Doordarshan Television and Radio in Srinagar. The clash resulted in the deaths of three assailants and two security officers. On May 29, unknown assailants shot Zafar Iqbal, a reporter for the Kashmir Images in Srinagar. Local journalists believed Iqbal may have been targeted because the publication is known for supporting the Government. The police had not arrested anyone in connection with the killing by year's end.

During the year, as in 2002, 2001, 2000, and 1999, Kashmiri militant groups threatened journalists and editors and even forced the temporary closing of some publications that were critical of their activities. For example, in December, activists from the Kashmiri separatist Jammu and Kashmir Liberation Front ransacked the editorial offices of "Chattan," a vernacular weekly in Srinagar, after the newspaper published material critical of the militants' leader, Yasin Malik.

Private satellite television was distributed widely by cable or satellite dish. These channels provided substantial competition for

Doordarshan, the government-owned television network, in both presentation and credibility. Doordarshan frequently was accused of manipulating the news in the Government's favor; however, in some parts of the country satellite channel owners used their medium to promote the platforms of the political parties that they supported. In addition, citizens had access to uncensored Cable News Network, the British Broadcasting Company and a variety of other foreign programs.

Government measures to control objectionable content on satellite channel -- notably, tobacco and alcohol advertisements -- still were in effect, which held cable distributors liable under civil law. The (often foreign) satellite broadcasters, rather than the domestic cable operators, fall within the scope of the regulation.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legalized during 2000, but licenses only authorized entertainment and educational content. Although there were privately owned radio stations, they were not permitted to broadcast news.

A government censorship board reviewed films before licensing them for distribution. The board censored material it deemed offensive to public morals or communal sentiment. For example, in March, the Central Board of Film Certification (CBFC) denied a certificate to the documentary "Aakrosh." The film's producers said that the authorities denied a certificate, and thereby prevented the film from being shown publicly, in retaliation for its expose on the riots in Gujarat. This banning encouraged self-censorship among film-makers.

In August, 11 security officials in Lucknow reportedly assaulted a senior television correspondent during a Presidential visit. He was hospitalized after sustaining several injuries during the attack. In December, 50 political activists vandalized the offices of a television station in Mumbai which aired criticism of the state's Deputy Chief Minister, who later resigned and accepted "moral responsibility."

The Government limited access to the Internet. The Information Technology Act provides for censoring information on the Internet on public morality grounds, and it considers "unauthorized access to electronic information" a crime. According to Reporters Without Borders, this law allows police officers to search the homes or offices of Internet users, at any time and without a warrant. On July 27, Anirudh Bahal and Mathew Samuel, both reporters with the on-line newspaper Tehelka.com were arrested and charged with conspiracy in connection with a story published on the Web site in October 2000. Tarun Tejpal, founder and editor-in-chief of the Web site, says that Tehelka.com is "a victim of competing political interest in a largely corrupt Indian establishment."

The Government restricted academic freedom. Some government officials continued to advocate "safronizing," or raising the profile of Hindu cultural norms and views in public education, which has prompted criticism from minority leaders, opposition politicians, academics, and advocates of secular values. On January 31, the Ministry of Human Resources Development (HRD), headed by Dr. Murli Manohar Joshi, passed strict academic guidelines to regulate academic partnerships between Indian and western universities and academics, in line with Hindutva philosophy. The new guidelines issued to all central universities require HRD permission for "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, research, etc.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades or demonstrations, but local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where separatist parties routinely were denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

Unlike in previous years, there were no reports of banning of religious processions in Gujarat. Unlike in previous years, the Jammu and Kashmir government allowed a procession of separatist groups to march on the anniversary of the Birth of the Prophet.

In May, Jharkhand police fired upon a demonstration, and 12 persons were injured. The persons were protesting the admission of "outsiders" to take examinations for teaching positions. In June, police fired upon a demonstration in Shopian, Jammu and Kashmir, and four students were injured. The students were protesting an alleged molestation of some women students by security forces; however, the Government alleged that police fired only in self-defense.

No action was taken against security forces who forcibly dispersed demonstrations or meetings during the year or in 2002 or 2001.

NGOs must secure the prior approval of the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provides the Government with substantial political control over the work of NGOs and their freedom of assembly and association. Some NGOs alleged that some of their members were denied visas to enter the country.

c. Freedom of Religion

The Constitution provides for secular government and the protection of religious freedom, and the central Government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted, among other reasons, from the legal constraints inherent in the country's federal structure and from the inadequacies in law enforcement and justice systems. The ineffective investigation and prosecution of attacks on religious minorities was interpreted by some extremist elements as a signal that such violence likely would go unpunished. Tension between Muslims and Hindus, and between Hindus and Christians, continued to pose a challenge to the secular foundation of the State.

Although the law provides for religious freedom, enforcement of the law was poor, particularly at the state and local levels, where the failure to deal adequately with intragroup and intergroup conflict abridged constitutional protections.

The leading party in the government coalition is the BJP, a Hindu nationalist political party with links to Hindu extremist groups that were implicated in violent acts against Christians and Muslims. The BJP also leads state governments in Chhattisgarh, Goa, Gujarat, Jharkhand, Madhya Pradesh, Rajasthan, and Arunachal Pradesh. In Orissa, the BJP rules in coalition with the Biju Janapa Dal. Many BJP leaders and party workers were members of the Rashtriya Swayamsewak Sangh (RSS), an organization based on Hindu nationalism, and share some of its ideology. The RSS espouses a return to what it considers Hindu values and cultural norms. However, the BJP is an independent political party, and the degree of RSS influence over its policy making was not clear.

There were reports that members of the BJP, the RSS, and other affiliated organizations harassed and at times threatened the use of violence against Christians and Muslims. The BJP and RSS officially expressed respect and tolerance for other religions; however, the RSS in particular opposes conversions from Hinduism and believes that all citizens should adhere to Hindu cultural values. The BJP officially agrees that the caste system should be eliminated, but many of its members are ambivalent about this. The BJP's traditional cultural agenda includes calls for construction of a new Hindu temple in Ayodhya. The temple would replace an ancient Hindu temple believed to have stood on the site of a mosque in Ayodhya that a Hindu mob destroyed in 1992; for the repeal of Article 370 of the Constitution, which grants special rights to the state of Jammu and Kashmir, the country's only Muslim majority state; and for the enactment of a uniform civil code that would apply to members of all religions. In December, 5 persons were killed and 27 injured after Hindu-Muslim clashes broke out in Hyderabad. Tens of thousands of police were deployed in the area to prevent further attacks.

No registration is required for religions. Legally mandated benefits are assigned to certain groups, including some defined by their religion. For example, some states reserve jobs and educational enrollment slots for Muslims, who do not benefit from reservations designed to help lower-caste Hindus.

In May 2001, the Government banned Deendar Anjuman, a Muslim group whose members were arrested for a series of church bombings in Karnataka in 2000. During the year, the Government arrested and charged approximately 40 members of Deendar Anjuman implicated in the Karnataka bombing.

The Religious Institutions (Prevention of Misuse) Act makes it a criminal offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building may commence. The Act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic fundamentalist terrorist groups, but the measure became a controversial political issue among religious Muslims. In West Bengal, the law requires any person desiring to construct a place of worship to obtain permission from the district magistrate.

In 2002, the Supreme Court ruled that Hindu activists could not perform a religious ceremony on the land surrounding the site of the demolished mosque in Ayodhya. During the year, tens of thousands of members of the VHP were arrested to prevent them from attempting to stage a rally on the land. Thousands of police and paramilitary troops were deployed in and around Ayodhya, and most Hindu militants were stopped from entering the town.

On January 10, the controversial Prohibition of Forcible Conversion of Religion Act that bans "forced" religious conversions was passed in the state of Tamil Nadu. In February, the "Freedom of Religion" Bill that provides penalties for conversion using allurements or force, including up to 3 years in prison and a fine of \$1,000 (50,000 Rs), was passed in Gujarat. Conversions in Gujarat must be assessed by officials, and prior permission given by the District Magistrate. Human rights advocates believed that both laws make it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system, to convert from Hinduism to another religion. Further, the Tamil Nadu law requires that persons involved in a conversion report it to the local magistrate within 10 days. Authorities in Tamil Nadu announced their intention to enforce the law as a deterrent to large-scale conversions. The Gujarat bill requires persons converting to have prior permission from the district authorities before

conversion.

There is no national law that bars a citizen or foreigner from professing or propagating his or her religious beliefs; however, India's Foreigners Act strictly prohibits visitors who are in the country on tourist visas from engaging in religious preaching without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse to issue permits for foreign Christian missionaries, as well as other persons, to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA), which restricts funding from abroad and, therefore, the ability of certain groups to finance their activities. The Government was empowered to ban a religious organization if it has violated the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governed many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women (see Section 5).

Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities decreased overall but occurred in several states, which brought into question the Government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, on November 20 in Assam, communal violence broke out after Assamese youths prevented groups from neighboring Bihar, a poor, mostly Hindi-speaking state, from participating in recruitment exams at the state-owned railways. The Bihari youths retaliated by attacking trains bound for Assam and allegedly raping a girl. The Government deployed troops to patrol Assam in an attempt to quell outbreaks of violence. On November 21, a mosque was bombed in Parbhani, east of Mumbai. The attack took place during Friday prayers during Ramadan; at least seven persons were wounded. On the same day in Orissa, Hindu militants belonging to the VHP and Bajrang Dal torched a Catholic church. The attack followed several days of violence. On November 20, numerous unknown persons wearing saffron—the symbol of Hindutva ideology—burned Bibles in front of the district governor's residence and then broke into a church of a nearby village and raped a nun. There were no reports of any action taken against members of mobs who killed during the year.

Reports continued that Hindus received limited punishment for the 2002 Gujarat violence, while some Muslims complained of continued harassment and discrimination by the state government in Gujarat (see Section 5). In Gujarat, there continued to be credible evidence of prejudice in favor of Hindus and an unwritten policy of impunity against the perpetrators of 2002 religious violence. For example, the 70-page HRW July report noted that more than 1 hundred Muslims had been charged under the country's POTA for their alleged involvement in the 2002 train violence in Godhra. However, no Hindus had been charged under POTA in connection with the violence at year's end. Further, HRW reported "although the Indian government initially boasted of thousands of arrests following the [2002] attacks, most of those arrested have since been acquitted, released on bail with no further action taken, or simply let go. Police regularly downgrade serious charges to lesser crimes – from murder to rape to rioting, for example – and alter victims' statements to delete the names of the accused." Additionally, the report criticized the Gujarat state court, which in June, acquitted 21 persons accused of burning alive 12 Muslims in a bakery in Vadodara after 35 of the 73 witnesses retracted their statements (see Section 5). In September, the Supreme Court expressed its displeasure at the authorities in Gujarat for its handling of the "Best Bakery" case. Various human rights organizations have appealed to the Supreme Court to move certain cases outside the jurisdiction of Gujarat. The Supreme Court is scheduled to hear this matter starting in January 2004.

Some Christian groups also claimed that BJP officials at state and local levels became increasingly uncooperative. The Government also has been criticized for not attempting to restrain the country's radical Hindu groups.

Christian leaders noted a decrease in the incidents of violence against their community and also a change in the type of incidents; however, attacks against Christians continued. For example, in January, Hindu militants attacked missionary Joseph Cooper and several others in Kerala. Police arrested nine persons in that attack; however, no persons were charged at year's end. In a report on the attack, the human rights NGO "CHRO" quoted a Minister as saying that the request by local police to have Cooper leave the country "would send the right signal that the country will not be soft on foreigners who violate the laws of the land."

No action was taken against persons who attacked Christians or churches in 2002. Despite a reduction in physical attacks against Christians, Hindu nationalists continued an ideological campaign to limit access to Christian institutions and discourage or, in some cases, prohibit conversions to Christianity. There were no developments in the Sister Brishi Ekka case during the year. In 2002, a cable television station promoting Catholic values was launched in Kerala.

Citizens often referred to schools, hospitals, and other institutions as "missionary" even when they were owned and run entirely by indigenous Christian citizens. By using the adjective "missionary," the RSS tapped into a longstanding fear of foreign religious domination.

The trial of Dara Singh and his 12 associates for the 1999 murder of Australian missionary Graham Staines and his two sons concluded during the year. On September 23, the court sentenced Dara Singh to death and his associates to life imprisonment. In October, Singh appealed his sentence to the Orissa High Court.

In Christian majority areas, Christians sometimes were the oppressors. In Tripura, there were several cases of harassment of non-Christians by Christian members of the National Liberation Front of Tripura (NLFT), a militant tribal group with an evangelical bent. For example, NLFT tribal insurgents have prohibited Hindu and Muslim festivals in areas that they control, cautioned women not to wear traditional Hindu tribal attire, and prohibited indigenous forms of worship. In Assam, the issue of Bangladeshi migrants (who generally were Muslim) has become very sensitive among the Assamese (predominantly Hindu) population, which considers its majority position to be in jeopardy.

Hindus have also been victims of violence. For example, on May 2, Muslim extremists reportedly attacked Hindu fishermen. Nine persons and 16 others were injured. The NHRC demanded a report from the state government on this incident. On August 26, 2 bomb attacks near the Gateway to India monument and the Hindu Temple of Mumbadevi killed 44 persons. The Government responded quickly to dispel further violence. The government arrested four Muslims and charged them in the attack. In their statements to police, the bombers identified their intent to retaliate against Hindus for 2002 anti-Muslim rioting in Gujarat.

Unlike in previous years, the exodus of many from the Sikh community did not occur.

The degree to which the BJP's nationalist Hindu agenda impacted religious minorities varied depending on the region. In some states, governments made efforts to reaffirm their commitment to secularism. In others, mainly in the south, religious groups alleged that since the BJP's rise to power in the national Government, some government bureaucrats began to enforce laws selectively to the detriment of religious minorities. For example, this revivalist campaign included the "Hinduization" of education, including the revision of history books to include hate propaganda against Islamic and Christian communities. The situation in the east varied. For example, the Orissa Freedom of Religion Act contains a provision requiring a monthly government report on the number of conversions and requiring a police inquiry into conversions, but this provision was not enforced.

For a more detailed discussion see the 2003 [International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement, and the Government generally respected this in practice. Movement generally was unhindered for citizens outside certain border areas where, for security reasons, special permits were required.

Vehicle checkpoints, at which Border Security Force (BSF) routinely searched and questioned occupants, were a common feature throughout most of Jammu and Kashmir. It also was common for police to block entry and exit points in preparation for gathering young males for police lineups. These searches tended to focus on troubled areas, as opposed to the mass searches that were common in the past. According to a credible source, such search operations seldom yielded any results. There were frequent curfews in areas of conflict, including in New Delhi, in recent years. The Government also expanded construction of a security barrier along the LoC in disputed Kashmir, causing difficulties for Kashmiris and Pakistanis and isolating residents. The barrier was to be completed by June, 2004. The Government claimed that the barrier was necessary to prevent terrorism.

Under the Passports Act, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the violent separatist movement in Jammu and Kashmir. For example, in January, the Government suspended the passport of Mirwaiz Umar Farooq, a leader of the separatist All-Parties Hurriyat Conference.

During the year, there were reports that Bodo-Santhal ethnic clashes continued. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of the ongoing violence between Bodos and Santhals. On November 15, Assam separatists prevented candidates from Hindi-speaking state of Bihar from applying for jobs. It was reported that soon after, Bihar youths attacked and injured 50 persons from Assam. As a result, ULFA began attacking the Hindi-speaking persons, killing 40 and displacing 17,000.

According to the Norwegian Refugee Council, at least 650,000 persons in India have been displaced due to conflicts in states of Jammu and Kashmir, Gujarat, and the North-East (see Sections 1.a., 1.c., and 1.g.).

The Government estimated that there were 10 million Bangladeshis living illegally in the country. By year's end, the Illegal Migrants Determination by Tribunal law (IMDT), which largely was aimed at illegal Bangladeshi immigrants, had not been implemented nor repealed.

The law does not provide for the granting of asylum or refugee status to persons who meet the definition of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The office of the U.N. High Commissioner for Refugees (UNHCR) had no formal status, but the Government permitted the UNHCR to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese). Unlike in previous years, the U.N. High Commissioner for Refugees did not visit the country.

The Government also provides temporary protection to certain individuals who do not qualify as asylees or refugees.

The Government provided certain assistance in refugee camps or in resettlement areas, most notable to Tibetan and Sri Lankan Tamil refugees; however, this was applied inconsistently. During the year, the UNHCR began to end the monthly subsistence allowance of Burmese refugees. As a result, Burmese refugees and asylum seekers demonstrated outside the UNHCR office in New Delhi during the year. On November 12, the authorities used water cannons, electric batons, and canes to forcibly disperse 500 demonstrators and 25 of the demonstrators were injured.

According to UNHCR and government statistics, there were approximately 110,000 Tibetans in 130 camps, approximately 64,000 Sri Lankan Tamils in 104 camps, and several thousand Sri Lankan Tamils living in the country at year's end. The refugees in the camps were permitted to work, and the state and central governments paid to educate refugee children and provided limited welfare benefits. Some 80,000 Chakma permanent residents remained in Arunachal Pradesh and Mizoram. By year's end, the Supreme Court's order to extend citizenship to this group was not enforced. The UNHCR reported that 11,642 Afghans, 857 Burmese, and approximately 350 others were receiving assistance from the UNHCR in the country as of August 2001. The Government also assisted an unknown number of persons from Tibet and Sri Lanka. Although the Government formally did not recognize these persons as refugees, it did not deport them. Instead, they received renewable residence permits, or their status was ignored. Increasingly during the year, some of these groups--Afghans, Iraqis, and Iranians in particular--were not granted renewal of their residence permits by the authorities on the grounds that they were not in possession of valid national passports. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and therefore were unable to regularize their status in the country.

The central Government generally denied NGOs and the UNHCR direct access to the camps. NGOs reported refugee complaints about deteriorated housing, poor sanitation, delayed assistance payments, and inadequate medical care in the Tamil refugee camps. Human rights groups alleged that the Government used some of these "special camps" to hold suspected members of the LTTE terrorist organization. Human rights groups alleged that inmates of the special camps sometimes were subjected to physical abuse and that their confinement to the camps amounted to imprisonment without trial. They alleged that several of those acquitted by the Supreme Court in 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi remained confined in these special camps. During the year, the Tamil Nadu government initiated a review of the inmates of the special camps to determine whether any could be released. At year's end, approximately 35 persons remained in the special camps.

Santhals were non-recognized refugees in Assam, and human rights groups estimated that 200,000 lived in relief camps. The Santhals were being sheltered in 100 camps in Assam; conditions in such camps were extremely poor, and the Assam government claimed it did not have the resources to improve the conditions of the relief camps.

Ethnic Chins were among the non-recognized refugees in the northeastern states, particularly Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. In 2001, there were news reports that thousands of ethnic Chins were asked to leave Mizoram. The Mizoram Chief Minister stated that he wanted the border with Burma to be "fenced to check further infiltration of immigrants into the state." Human rights monitors alleged that approximately 1,000 Chin refugees were arrested in Mizoram, and some 200 had been repatriated forcibly to Burma between July and September 2000. NGOs estimated that 10,000 persons were expelled to Burma, where "the deportees were jailed pending hearings to be scheduled before military tribunals." An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram.

Mizoram human rights groups estimated that some 31,000 Reangs, a tribal group from Mizoram that were displaced due to a sectarian conflict, were being sheltered in 6 camps in North Tripura. Conditions in such camps were poor, and the Tripura government asked the central Government to allot funds for their care. Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package for refugees in the relief camps. The Mizoram government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments were elected at regular intervals except in states under President's Rule.

On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery. The Supreme Court has upheld the Government's authority to suspend fundamental rights during an emergency.

During the year, State Assembly elections were conducted in February in Himachal Pradesh, Meghalaya, Nagaland and Tripura and in December in Chhattisgarh, Madhya Pradesh, Mizoram, Delhi, and Rajasthan. Observers reported that the elections took place in a generally free and transparent manner; however, there were incidents of violence and reports that a mob destroyed a

electronic voting machine in Nagaland. Five persons were killed and 24 injured in poll-related violence and communal clashes in Chhattisgarh and Madhya Pradesh. The Election Commission reported a voter turnout of more than 60 percent.

In October-November 2002, the Election Commission conducted Legislative Assembly elections in Jammu and Kashmir, which most observers considered free and fair, and in which voters ousted the National Conference party in favor of a reformist coalition government consisting of the People's Democratic Party and the Congress Party. However, election-related violence killed more than 800 persons.

There were 73 women in the 783 seat legislature. There were 7 women in the Cabinet of Ministers. A large proportion of women participated in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women were represented in all major parties in the national and state legislatures. The passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which brought more than 1 million women into political life at the grassroots level.

The Constitution reserves seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (see Section 5). Indigenous people actively participated in national and local politics, but their impact depended on their numerical strength. In the northeastern states, indigenous people were a large proportion of the population and consequently exercised a dominant influence in the political process. In contrast, in Maharashtra and Gujarat, tribal people were a small minority and were unsuccessful in blocking projects that they opposed.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in some states and in a few circumstances, human rights groups faced restrictions. Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals closely involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked in past years and in some cases killed. International human rights monitors had difficulty in obtaining visas to visit the country for investigation purposes. For example, in June the Government denied a visa to the Secretary General of AI after AI released a critical report on state actions in Gujarat.

The main domestic human rights organization operating in the country is the Government-appointed National Human Rights Commission (NHRC). The NHRC has powers to investigate and recommend policy changes, punishment, and compensation in cases of police abuse. In addition, the NHRC was directed to contribute to the establishment, growth, and functioning of human rights NGOs. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness. From 2002 until year's end, the NHRC recorded 68,776 complaints, more than 50 percent of which were from the state of Uttar Pradesh. Approximately 54,013 of these 68,776 were dismissed or disposed.

The NHRC also has influenced the legislative process, particularly by issuing recommendations on women's issues, persons with disabilities, and children's rights. The NHRC encouraged the establishment of human rights cells in police headquarters in some states; however, this policy was not implemented in any meaningful way. The NHRC also was involved in programs to eliminate child labor (see Section 6.c.).

The NHRC asked the Supreme Court to take corrective action in regard to the "Best Bakery" case in Gujarat, in which the Gujarat lower court acquitted 21 defendants in May. In September, the Supreme Court issued a directive to the Government of Gujarat to appeal the acquittal. In December, the Gujarat High Court confirmed a lower court's decision. (see Section 2.c.).

There were no developments in the investigation of the 2002 killing of human rights defender Navleen Kumar outside of Mumbai; or the stabbing of P.B. D'Sa.

Several Christian-affiliated international relief agencies stated that during the year their work in delivering services to the poor became considerably more difficult due to threats, increased bureaucratic obstacles, and, in some cases, physical attacks on their field workers by Hindu extremists (see Sections 2.c.).

International human rights organizations were restricted. For example, during the year the government refused HRW access to the country. The Government also denied the U.N. Special Rapporteur on Extrajudicial Killings permission to visit the country.

The 1993 Protection of Human Rights Act recommends that each state to establish a state human rights commission, but not all states have done so. Commissions exist in 14 of the 25 states: Assam, Chhattisgarh, Manipur, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, Uttar Pradesh, Andhra Pradesh, and Rajasthan. Gujarat has not officially established a state commission, but in 2002 appointed a two-member judicial commission to investigate the violence in Gujarat. The commission had not reported its conclusions by year's end. The state human rights commission established in Jammu and Kashmir by an act of the state legislature had no power to independently investigate

alleged human rights violations committed by security force members.

For example, Punjab's Human Rights Commission (PHRC) in 2002-3 received 995 complaints of human rights violations. According to AI, the Commission was understaffed and seriously limited by the PHRA, which limited its powers to investigate individual cases of human rights violations. The People's Commission, a separate body to investigate disappearances, was established by retired Supreme Court Justice Kuldeep Singh to highlight the fate of more than 2,000 persons who "disappeared" during the period of political unrest in Punjab (see Section 1.b.); it continued to receive little cooperation from state government authorities. During the year, HRW commended the Committee for Coordination of Disappearances in Punjab (CCDP), a Punjab-based human rights organization, for its report documenting 672 of the "disappearance" cases currently pending before the NHRC (see Section 1.b.). Six years ago, the Indian Supreme Court directed the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district. NHRC has yet to hear testimony for any case.

In addition to these state human rights commissions, special courts to hear human rights cases were established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. However, the courts in Uttar Pradesh did not function, despite a 1999 court order that they be reactivated.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social status

The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divide society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

The spread of HIV/AIDS was estimated to have infected approximately 4.58 million persons and there was significant societal discrimination against persons, with HIV/AIDS. According to the International Labor Organization (ILO), 70 percent of persons suffering from HIV/AIDS faced discrimination from society. For example, according to newspaper reports, in July, Munnuswamy Pavanamma, a widow whose husband had died of AIDS, was stoned to death by her neighbors in Andhra Pradesh. At year's end, police had made no arrests in connection with this incident.

Women

Domestic violence was common and a serious problem. In a survey by the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and, combined with ineffective prosecution, made progress against domestic violence difficult. According to the National Crime Records Bureau (NCRB), there were 49,170 cases of domestic violence reported in the country from 1998-2001.

The issue of rape received increased political and social attention during the year. The majority of rapes are never reported to the authorities. The NCRB reported that there were only 16,075 cases of rape from 1998-2001. However, the Home Ministry reported in February that, in 2001, there was a 16.5 percent increase in reported rape cases as compared to 2000.

The press consistently reported that violence against women was increasing, although local women's organizations claimed that there simply had been increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity. Mass rapes often formed part of the tactics of intimidation used by upper caste gangs against lower castes, and gang rapes often were committed as a punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state. In Assam, 30 percent of rape cases involved girls below 18 years of age. Most of the victims were maidservants, some as young as 6 years old. For example, in October, a 17-year-old girl allegedly was gang-raped by Presidential Body Guards in New Delhi. There was no action taken by the authorities in this case at year's end.

Dowry disputes also were a serious problem. Although providing or taking dowry is illegal under the Dowry Prohibition Act, dowry was practiced widely. In the typical dowry dispute, a groom's family members harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which family members often tried to portray as a suicide or accident. According to NGOs, approximately 7,000 deaths each year in the country are from dowry-related burnings. Although most dowry deaths involved lower and middle-class families, the phenomenon crossed both caste and religious lines. According to the NCRB, between 1998-2001, there were 6,851 reported dowry-related deaths in the country. In August, the Government announced that defendants under the Anti-Dowry Act would be able to be released on bail.

Women usually at a disadvantage in dowry disputes, began to speak out against dowry demands. For example, in August, Nisha Sharma filed a complaint with the police when her father was asked for more dowry minutes before she was to be married. The potential groom was detained for 14 days while formal charges were filed for violating the country's laws against

dowries.

Under the Penal Code, courts must presume that the husband or the wife's in-laws were responsible for every unnatural death of a woman in the first 7 years of marriage--provided that harassment was proven. In such cases, police procedures required that an officer of deputy superintendent rank or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures. According to human rights monitors, in practice police did not follow these procedures consistently.

Sati, the practice of burning widows on the funeral pyres of their husbands, was banned, but continued to be practiced in some areas. There were no developments in the arrest of 15 persons in connection with the 2002 sati incident in Madhya Pradesh.

"Honor killings" were also a problem. Human Rights organizations estimated that up to 10 percent of all killings in the northern states of Punjab and Haryana were so-called honor killings; however, many more women are believed to be affected by this crime. In Muzaffarnagar, 13 cases of honor killings were reported during the first 9 months of the year, up from 10 in 2002.

Several traditional practices that were harmful to women continued during the year. In March, 100 women in Tamil Nadu were walked on by a Hindu priest with nails in his shoes in a ritual intended to cure them of physical and mental illnesses; the state's human rights commission issued a request to investigate the incident. There were no developments in the 2002 cases of a tribal woman in Madhya Pradesh forced to bathe in urine and the woman in Indore forced to engage in the practice of "agnipariksha."

In remote villages, witchcraft accusations and punishments still occurred.

Societal violence against women was a serious problem. In January, the National Commission for Women reported that it was dissatisfied with the Gujarat government's handling of rape cases stemming from the 2002 riots, noting that there were no convictions during the year.

Dalit ("untouchable") women have been stripped naked by mobs and paraded around in public to humiliate Dalits who offended other castes. For example, in June, a Dalit girl allegedly was abducted and gang-raped by three youths in Noida. No further information was available at year's end. In 2002, a Dalit woman allegedly was paraded naked in Chhattisgarh. Police arrested two men in connection with the 2002 abduction and gang rape of a Dalit woman in Haryana state.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government often was unable to enforce these laws, especially in rural areas in which traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of six to seven years to conclude such cases.

Prostitution was common. According to UNICEF, the country contained half of the one million children worldwide who enter the sex trade each year. Many indigenous tribal women were forced into sexual exploitation (see Section 6.c.). In recent years, prostitutes began to demand legal rights, licenses, and reemployment training, especially in Mumbai, New Delhi, and Calcutta. In 2002, the Government signed the South Asian Association for Regional Cooperation (SAARC) Convention on Prevention and Combating Trafficking in Women and Children for Prostitution. The country is a significant source, transit point, and destination for many thousands of trafficked women (see Section 6.f.).

Sexual harassment was common, with a vast majority of cases unreported to authorities. Sexual harassment of women in the workplace became a subject of NHRC consideration during the year. The NHRC instituted a committee to investigate harassment of women in the legal profession and asked universities to establish complaint committees immediately. The commission suggested the creation of a telephone hot line for complaints, initially starting in New Delhi, and gave advice to the media on reporting incidents of harassment against women.

During the year, women joined the National Security Guard for the first time as a result of an internal change in policy which had previously prohibited women from this organization.

The law prohibits discrimination in the workplace, but enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State governments supported micro credit programs for women that began to have an impact in many rural districts.

The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001; the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years' imprisonment, for clergymen who contravened its provisions.

In Kashmir, the Lashkar-e-Jabbar militant group required all Muslim women to wear a burqa (a garment that totally covered the face and body) when in public or risk retribution. A significant number of women in the Kashmir Valley appeared to be complying with the order, frightened by the threat of being attacked with acid, beheaded, or killed. Lashkar-e-Jabbar also further ordered Hindus and Sikhs in the valley to wear identifying marks and told transport companies to reserve 50 percent of their seats for

women in an effort to separate men and women in public spaces. At year's end, the Home Ministry reported that no women police officers had to quit their jobs as a result of the 2002 militant threat that ordered all women police officers in Rajouri District of Jammu and Kashmir to quit their jobs by January 2003.

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women could have several husbands and control the family inheritance.

In December, the Jammu and Kashmir State Legislative Assembly passed legislation that reserved 33 percent of its seats for women.

The Government addressed women's concerns primarily through the National Commission for Women, but NGOs were also influential.

Children

The Government has not demonstrated a commitment to children's rights and welfare. The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between the ages of 5 and 14 attend school. However, in 2002, the lower house of Parliament passed a constitutional amendment giving all children ages 6 to 14 the right to free and compulsory education provided by the State. The amended law also placed an obligation on parents and guardians to provide educational opportunities to these children. Of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, according to UNICEF, 76.2 percent of all children aged 11 to 13 years were attending school. No significant sectors or groups actively were excluded from education, but children of wealthier families were more likely to attend school. A significant gender gap existed in school attendance, particularly at the secondary level.

Child welfare organizations estimated that there were 500,000 street children nationwide living in abject poverty. A coalition of approximately 50 NGOs conducted a detailed survey in the Calcutta municipal area and identified 145,000 children who were not attending school, although not all of them were street children.

Medical care is free to all citizens; however, availability and quality were problems, particularly in rural areas.

Child abuse is prohibited specifically by law. There were societal patterns of abuse of children; however, the Government has not released comprehensive statistics regarding child abuse.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often beat children. In June, police arrested the mathematics teacher who allegedly beat a student in Velammal Matriculation Higher Secondary School in Kannappan. In December, a student in Madhya Pradesh was allegedly blinded by a teacher for not doing his homework. There were no developments in the investigation of the August 2001 death of three children after the Assam government asked them to participate in a march.

The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country. The Act raised the age requirement for marriage for girls to 18 from 15 years, but the Government did not enforce the Act. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh were married by age 16. However, the National Crime Record Bureau (NCRB) statistics showed a slight decrease in the number of child marriages during 2001. Each year in April, during the Hindu festival of Askhay Tiritiya, thousands of child marriages were performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities.

Runaway children, especially in larger cities, were at high risk for sexually transmitted diseases and HIV. They often worked 18- to 20-hour days, frequently in hazardous conditions (see Section 6.c.), and suffered sexual and mental abuse. Discrimination against children with HIV/AIDS was a problem. For example, in March, two children with HIV/AIDS were refused entry into a state school in Kerala. The children eventually were allowed to enter another state-run school in Kollam.

Trafficking in children for the purpose of forced prostitution was a problem (see Sections 6.c. and 6.f.).

The buying and selling of children for adoption occurred. For example, in February, the Salem district collector ordered an inquiry into the reported sale of baby girls in Kolathur. At year's end, police had made no arrests in connection with this incident.

The Union Ministry of Social Justice and Empowerment set up a 24-hour "child help line" phone-in service for children in distress in 14 cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation.

The traditional preference for male children continued. The law prohibits the use of amniocentesis and sonogram tests for sex determination; however, despite an order from the Supreme Court during the year, the Government did not effectively enforce the law. The tests were misused widely for sex determination, and termination of a disproportionate number of pregnancies with female fetuses occurred. During the year, the Government passed a bill in Parliament which fined any persons \$1,000 (50,000 Rs) if they perform a sex selection procedure. In the 12 years since the State of Maharashtra passed a law banning the use of such tests for sex determination, the state government filed charges against only one doctor, who was acquitted. Human rights groups estimated that at least 10,000 cases of female infanticide occurred yearly. Parts of Tamil Nadu still had high rates of female infanticide. In addition, parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable.

In Tamil Nadu, three persons were sentenced to life imprisonment for killing a newborn girl. Tamil Nadu implemented a "cradle scheme" in 1992 in which persons could leave unwanted infants outside the Social Welfare Department.

Persons with Disabilities

Although the Persons with Disabilities Act provides equal rights to all persons with disabilities, advocacy organizations admitted that its practical effects so far have been minimal in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government.

According to NGOs, there were more than 60 million persons with disabilities in the country. According to Javed Abidi of the National Center for Promotion of Employment for Disabled People (NCPEDP), the census taken during 2001 failed to include categories of disability, thus making an accurate estimate of the needs of persons with disabilities impossible. Neither law nor regulations required accessibility for persons with disabilities. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly was raising public awareness of the rights of persons with disabilities. Government buildings, educational establishments, and public spaces in New Delhi have almost no provisions for wheelchair access.

The Disabled Division of the Ministry of Welfare had a budget of more than \$46.3 million (2.13 billion Rs) for the 2003-2004 fiscal year for a number of organizations and committees at the national, regional, and local levels. The Ministry delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services still were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India.

In June, the National Center for the Promotion of Employment for Disabled People launched an exclusive news service on disability in the country.

The Persons with Disability Act established a Disabilities Commissioner who over saw implementation of the Act and its provisions protecting persons with disabilities.

According to the Persons with Disability Act, 3 percent of positions in government offices and state-owned enterprises must be reserved for persons with visual, hearing, or orthopedic disabilities; however, government survey's indicated that employment for persons with disabilities exceeded 3 percent of positions in the public sector.

The Government provided special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the government for a special security fund; however, no action was taken on this request at year's end.

Mental health care was a problem. Hospitals were overcrowded and served primarily as a "dumping ground" for the mentally handicapped. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with poor sanitary conditions. In July, the NHRC announced that insufficient attention was paid to issues of the mentally handicapped and called for better enforcement of the nations laws. At year's end, no action was taken in the 2001 NHRC recommendation to remove all persons with mental illness from jails.

Indigenous People

The Innerline Regulations enacted by the British in 1873 still provide the basis for safeguarding tribal rights in most of the northeastern border states. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in the tribal areas without approval from tribal authorities.

The 1991 census indicated that 8 percent of citizens belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal People (ICITP), 80 percent of the tribal population live below the poverty level. According to the ICITP, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation

(see Sections 6.c. and 6.f.). The 1955 Protection of Civil Rights Act prescribes special courts to hear complaints of atrocities committed against tribal people.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often were ignored. NGOs reported that in 2001, 4,121 cases of crimes against scheduled tribes were reported to the NHRC throughout the country. Indigenous peoples suffered discrimination and harassment, were deprived wrongly of their land, and were subjected to torture and to arbitrary arrest. There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. Moreover, persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal people occurred in many states (see Section 1.c.).

Numerous tribal movements demanded the protection of land and property rights. The Jharkhand Movement in Bihar and Orissa and the Bodo Movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, largely tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh. There was also some local autonomy for tribal people in the northeast.

National/Racial/Ethnic Minorities

The country's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and subcaste. Members of each caste--and frequently each subcaste--are expected to fulfill a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. Dalits (formerly called untouchables) were viewed by many Hindus as separate from or "below" the caste system; nonetheless, they too were expected to follow their dharma if they hope to achieve caste in a future life. Despite longstanding efforts to eliminate the discriminatory aspects of caste, the practice has remained widespread.

The practice of untouchability, which affected those who, along with tribal people, occupied the lowest social strata, was outlawed in theory by the Constitution and the 1955 Civil Rights Act, but it remained an important aspect of life. Untouchability refers to the social restrictions imposed on persons because of their birth into certain Hindu castes. Dalits were considered unclean by higher caste Hindus and thus traditionally were relegated to separate villages or neighborhoods and to low paying and often undesirable occupations (such as scavenging, street sweeping, and removing human waste and dead animals). Many rural Dalits worked as agricultural laborers for caste landowners. By custom Dalits may be required to perform tasks for upper caste Hindus without remuneration. The majority of bonded laborers were Dalits (see Section 6.c.). Dalits are among the poorest of citizens, generally do not own land, and often are illiterate. They face significant discrimination despite the laws that exist to protect them, and often are prohibited from using the same wells and from attending the same temples as caste Hindus, and from marrying persons from castes. In addition, they face segregation in housing, in land ownership, on roads, and on buses. Dalits tend to be malnourished, lack access to health care, work in poor conditions (see Section 6.e.), and face continuing and severe social ostracism. In contrast, the highest caste, the Brahmin, with 3.5 percent of the population, holds 78 percent of the judicial positions and approximately 50 percent of parliamentary seats. NGOs reported that crimes committed by higher caste Hindus against Dalits often were unpunished, either because the authorities did not prosecute vigorously such cases or because the crimes were unreported by the victims, who feared retaliation. For example, on August 10 one Dalit was beaten and killed by four upper caste persons in Anand after reports he was sitting in a temple verandah. During the year, the NHRC completed its inquiry into the 2002 killing of five Dalits in Haryana and approximately \$11,000 (500,000 Rs) was paid in compensation to the families by the government.

A survey conducted during 2001 by the Protection of Civil Rights wing of the Tamil Nadu Adidraavidar (indigenous peoples) Department identified 191 villages in Tamil Nadu where caste-based oppression and violence, and the practice of untouchability, were prevalent. Several human rights groups alleged that in many villages, "scheduled" castes were not allowed to enter the streets or participate in local festivals, own property in upper caste areas, share burial grounds, or draw water from public wells in upper-caste neighborhoods. The erection of statues of Dalit heroes or of the flags of Dalit parties in public places often became the cause of inter-caste tension. In several village teashops, Dalits were served beverages in separate cups (the so-called two-tumbler system).

There were no further developments in the 2002 case in which the Melavalavu Panchayat president and his associates were killed.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and tribal people (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent, and scheduled tribes were 8 percent of the country's 2001 population of 1.027 billion. Christians historically rejected the concept of caste; however, because many Christians descended from low caste Hindu families, many continued to suffer the same social and economic limitations, particularly in rural areas. Low caste Hindus who convert to Christianity lose their eligibility for affirmative action programs.

Those who become Buddhists or Sikhs do not. In some states, government jobs were reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and provides for stiff penalties for offenders. However, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.

Intercaste violence claimed hundreds of lives; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce rigid caste lines in all social settings led to episodes of vigilante retribution. While much more rare in urban settings, examples of intolerance occurred regularly in rural parts of the country.

Complicated social and ethnic divisions in society created severe localized discrimination. For example, the Pardhis, a small former itinerant community in Maharashtra, faced discrimination at the hands of the police and the rest of rural society in the area in which they live. Members were summoned for investigation whenever any armed robbery occurred in a city or town and reportedly were subjected to torture.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these, 13 to 15 million unionized workers, some 80 percent, were members of unions affiliated with 1 of the 5 major trade union centrals. All major trade union centrals were affiliated to a greater or lesser extent with particular political parties. Central unions stressed their independence, and in some cases were attempting to sever previously tight party control. In practice, legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. Union membership was rare in the informal sector.

The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities, when the victims were members of nationally organized unions. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law.

The Trade Union Act prohibits discrimination against union members and organizers, and employers are penalized if they discriminate against employees engaged in union activities.

Unions are free to affiliate with international trade union organizations. The Indian National Trade Union Congress and the Hind Mazdoor Sabha were affiliated with the International Confederation of Free Trade Unions (ICFTU), and the All India Trade Union Congress was affiliated with the World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine them. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified "essential" industries. Legal mechanisms exist for challenging the assertion that a given

dispute falls within the scope of this act; however, essential services never have been defined in law. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes "illegal" and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared in 2002 that all general strikes (bandhs) were illegal and that all organizers of protests would be liable for losses caused by shutdowns. The Supreme Court upheld the verdict, drawing attention to the difference between a complete shutdown of all activities (bandh) and a general strike (hartal). While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August, the Supreme Court declared all strikes by government employees to be illegal; however, in practice this has not been enforced.

According to Ministry of Labor statistics, between January and September there were 321 strikes and lockouts throughout the country, involving 381,000 workers. In all, 1.4 million person-days were lost due to strikes, and 50,154 person-days were lost due to lockouts during this period. In May, more than 30 million workers throughout the country went on a 1 day strike to protest government planned economic reform policies. The proposed changes would have made it easier to fire workers. The Industrial Disputes Act prohibits retaliation against strikers, provided that the strike is legal.

There were seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not pursue vigorously efforts to organize private-sector employees in the years since EPZs were established. Women constituted the majority of the work force in the EPZs. The ICFTU reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, such practices were widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective, due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children (see Section 6.d.). Persons born into a traditionally subordinate caste were expected to work without pay for those above them in the traditional social structure. For example, according to a Government report more than 85 percent of bonded laborers were scheduled castes and scheduled tribes.

A 1983 Supreme Court decision defined forced labor as work at less than the minimum wage, usually set by the state governments. Under this definition, which differed from that of the International Labor Organization (ILO), forced labor was widespread, especially in rural areas.

Bonded labor, the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt plus interest, was illegal but widespread. The Government estimated that between enactment of the Bonded (Abolition) Act in 1976 and March 2003, 283,158 bonded workers were released from their obligations. Other sources maintained that those released constituted only 5 percent of the total number of bonded laborers. State governments provided a sum of money to workers freed from bondage for their rehabilitation. The NHRC formed a high-level Central Action Group, which routinely reviewed compliance with the Bonded Labor System Act. The NHRC also appointed a special Rapporteur to work in Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu and report on compliance. In addition, the NHRC instituted a system for receiving regular reports on bonded labor from the states. The NHRC also assessed the bonded labor problem, identifying state districts in which it especially was acute. It identified and evaluated NGOs working in these areas and conducted training in bonded labor law enforcement for district officials in the acutely affected areas. Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began implementing and continued to work on rehabilitation plans. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic in illegal Bangladeshi immigrants was a source of bonded labor (see Section 6.f.).

NGOs such as the Bonded Labor Liberation Front and Society for Community Organization Trust worked to release bonded laborers throughout the year.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see Section 6.f.). According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Section 1.c.). Devadasis, prepubescent girls given to a Hindu deity or temple as "servants of God,"

were taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly many eventually were sold to urban brothels (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor but did not enforce this prohibition effectively and forced child labor was a problem. The law prohibits the exploitation of children in the workplace.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in "hazardous industries," which includes among other things, passenger, goods, and mail transport by railway. There were 13 occupations and 57 processes in which children were prohibited from working under the act. Child labor was prohibited in certain hazardous industries where there are specific age limits for specific jobs. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly.

In addition to industries that utilize forced or indentured child labor (see Section 6.c.), there was evidence that child labor was used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate, especially in the informal sector in which most children who work were employed. There was no evidence that the 2001 state government of Karnataka plan to eliminate all child labor was in operation during the year. During the year, the state government of Andhra Pradesh promulgated a plan to strengthen penalties for employers of child labor and eventually eliminate all child labor. The continuing prevalence of child labor was attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, and to ineffective state and federal government enforcement of existing laws.

The Government assisted working children through the National Child Labor Project, which was established in more than 3,700 schools.

Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme Court decision increased penalties for employers of children in hazardous industries to \$430 (20,000 Rs) per child employed and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay \$108 (5,000 Rs) to the family. According to the South Asian Coalition on Child Servitude the authorities were pursuing some 6,000 cases against employers. The Supreme Court ruling also helped make local government officials more aware of the prohibitions against child labor in hazardous industries. This in some cases helped improve cooperation between local officials and NGOs like SACCs that removed children from hazardous workplaces. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGOs worked with the state government to establish a task force for the elimination of child labor.

Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million, while NGOs stated that the figure is 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or otherwise were employed.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children sent from their homes to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there may be as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions (see Section 6.d.). In its first attempt to address the issue of domestic child labor, during 2000 the Government issued a notification prohibiting government employees from hiring children as domestic help. Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace.

Bonded child labor in silk twining factories was a problem. The labor commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. In January, HRW traveled to the country to investigate reported use of child slaves in the silk industry. HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children. The report said, "At every stage of the silk industry, bonded children as young as 5 years old work 12 or more hours a day, six and a half or 7 days a week. Children making silk thread dip their hands in boiling water that burns and blisters them. They breathe smoke and fumes from machinery, handle dead worms that cause infections, and guide

twisting threads that cut their fingers. By the time they reach adulthood, they are improvised, illiterate, and often crippled by the work."

Employers in some industries also took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets known to have been produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to use voluntarily a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The Government also cooperated with UNICEF, UNESCO, the UNDP, and the ILO in its efforts to eliminate child labor.

The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in the country in 1992.

The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO had rescued 33 children who had been sold into slave labor during the year.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, not observed in order and less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines and opencast mines were to be bulldozed and reforested. These rules seldom were obeyed. According to the Government, during the period from January to September 2001, 192 persons were killed in mining accidents. In June, flooding of a mine killed 17 miners in Andhra Pradesh.

Safety conditions tended to be better in the EPZs.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

f. Trafficking in Person

The law prohibits trafficking in persons; however, trafficking in persons was a significant problem. NGOs alleged that corruption at the enforcement level helps to perpetuate the problem. The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor.

The country was a destination country for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country is a origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country serves as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan, and for boys trafficked to the Gulf States to work as camel jockeys. NGOs reported that sexual exploitation of children for sex tourism increased sharply in the states of Goa and Kerala.

Child prostitution occurred in the cities, and there were an estimated 500,000 child prostitutes nationwide. More than 2.3 million girls and women were believed to be working in the sex industry within the country at any given time, and more than 200,000 persons were believed to be trafficked into, within, or through the country annually. Women's rights organizations and NGOs estimated that more than 12,000 and perhaps as many as 50,000 women and children were trafficked into the country annually from neighboring states for the sex trade. According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the U.N. reported that an estimated 40 percent were below 18 years of age. A large proportion of the women forced into sexual exploitation were tribals.

Trafficking in, to, and through the country largely was controlled by organized crime.

There was a growing pattern of trafficking in child prostitutes from Nepal and from Bangladesh (6,000 to 10,000 annually from each). Girls as young as 7 years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimate that there were approximately 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta.

In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved into the cities seeking greater economic opportunities, and once there were victimized by traffickers who forced or coerced them into the sex trade. In some cases, family members sold young girls into the sex trade. Extreme poverty combined with the low social status of women often resulted in the handover by parents of their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

Many indigenous tribal women were forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples (ICITP), more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes that were driven off their land by national park schemes. Press reports indicated children were routinely trafficked from Assam into Haryana and other North Indian states for sexual slavery under the pretext of entering into arranged marriages.

The number of women being trafficked to other countries was comparatively low.

Some boys, often as young as age 4, were trafficked to West Asia or the Persian Gulf States and became camel jockeys in camel races. Some boys end up as beggars in Saudi Arabia during the Hajj. The majority of such children worked with the knowledge of their parents, who received as much as \$200 (9,300 Rs) for their child's labor, although a significant minority simply were kidnapped. The gangs bringing the jockeys earned approximately \$150 (6,975 Rs) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or Indian woman who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf States to work as domestic workers or sex workers.

The National Commission for Women reported that organized crime played a significant role in the country's sex trafficking trade and that women and children who were trafficked frequently were subjected to extortion, beatings, and rape. How women were trafficked varies widely: Although some were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem, although organized crime was a common element in all trafficking incidents, as was police corruption and collusion. Although corruption was endemic in the country, there was no known anti-corruption initiative that was linked specifically to corruption as it related to trafficking during the year. NGOs alleged that ignorance, a lack of political resolve to tackle it, and corruption at the enforcement level perpetuated the problem.

Although the police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and sex workers have viewed police actions as part of the problem. Sex workers in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution and deportation.

The penalty for traffickers was prescribed by the Immoral Trafficking Prevention Act (ITPA). If the offense had been committed against a child (under 16 years), the punishment was imprisonment for 7 years to life. If the victim was a minor (16 to 18 years),

the punishment was from 7 to 14 years. Other penalties under the act range from minimum terms of imprisonment of 1 year for brothel-keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution.

The Immoral Trafficking Prevention Act (ITPA), supplemented by the Penal Code, prohibits trafficking in human beings and contains severe penalties for violations. The Constitution also prohibits trafficking in persons. The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the Government to provide protection and rehabilitation for these rescued girls. In addition, under the ITPA, prostitution is not a crime; the ITPA criminalizes only solicitation or engaging in sex acts in or near a public place. Some NGOs noted that this ambiguity, which was intended to protect trafficking victims, instead was exploited to protect the sex industry.

However, the country's prostitution and trafficking laws were selectively enforced by police; clients and organizers of the sex trade tended not to be penalized, while prostitutes found soliciting or practicing their trade in or near (200 yards) public places were arrested. Due to the selective implementation, the "rescue" of sex workers from brothels often led to their revictimization. Using the ITPA's provisions against soliciting or engaging in sexual acts, police regularly arrest sex workers, extort money from them, evict them, and take their children from them. Clients of prostitutes, by comparison, largely were immune from any law enforcement threat, as clients committed a crime only if they had engaged in a sex act with a sex worker in a public place or had had sex with a girl under the age of 16 years (statutory rape). Therefore, although the intention of the ITPA was to increase enforcement efforts against the traffickers, pimps, and border operators, the opposite occurred. Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade was extremely poor. NGOs familiar with the legal history of prostitution and trafficking laws regarded the failure of the judiciary to recognize this inequity in the law's implementation as a continuing "blind spot." Over the last several years, arrests and prosecutions under the ITPA increased slightly, while all indications suggested a growing level of trafficking into and within the country.

NGOs and others alleged that police did not act effectively against brothels suspected of enslaving minors, and did not coordinate with NGOs. Therefore, the police action often worsened the situation of girls and women indebted to traffickers and brothel owners. Girls rescued from brothels were treated as criminals. In many cases, the police or the staff of government remand centers, where they were housed temporarily, abused them sexually. In most cases, arrested prostitutes were quickly returned to the brothels after the brothel operators paid bribes to the authorities. In still other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owned by the girls to the brothel operators and traffickers further increases as the costs of bribing or legally obtaining release of the girls is added to their labor debt.

NGOs also have demanded that special ITPA courts for speedy resolution of cases allow videotaped testimony so that underage victims need not be summoned back for trial. For example, videotaped testimony was allowed during a Mumbai trial.

The Government continued a campaign to improve police training and sensitivity to trafficking issues. According to NGOs, there were improvements in investigations and arrests of traffickers in Mumbai and Calcutta. During the year, police and NGOs rescued 12 minor girls from brothels in New Delhi. There were roughly 80 NGOs in ten states around the country working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC includes representatives from the National Commission for Women, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Some NGOs were very knowledgeable about the trafficking situation and could identify traffickers and the locations of girls being held captive by brothel owners. However, most of these NGOs were reluctant to trust the police with this information due to the past conduct of police in brothel raids and the likelihood that many trafficking victims would be arrested and revictimized rather than assisted by such raids. Press reports in August said the 37 girls had been successfully rescued due to the joint efforts of the state government of Maharashtra and a local NGO.

Efforts to improve NGO coordination were being made in Calcutta, where 10 NGOs met monthly as part of the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) forum. Every 3 months, the group attempted to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGOs such as Sanlaap also were seeking to build stronger working relationships with local police.

The Government cooperated with groups in Nepal and Bangladesh to deal with the problem. Training and informational meetings took place under the AATSEC and the South Asian Association of Regional Cooperation. The NHRC asked the committee that oversees the Hajj (pilgrimage) to require individual passports for children instead of allowing them to be included on that of their escort, in order to reduce trafficking of children. NHRC also advised the Government of West Bengal to make efforts to educate Muslims about child trafficking. In addition, the Central Police Academy conducted, in conjunction with local state police academies, improved training designed in part to sensitize officers to the problem of trafficking and strengthen police responsiveness to trafficking victims.